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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,348

07/20/2005

Sitke Aygen

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136 7590 03/30/2011

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EXAMINER

NATNITHADHA, NAVIN

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

03/30/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments in the Pre-Appeal-Brief Request for Review

1. Applicant's arguments, see Pre-Appeal-Brief Request for Review, pp. 1-2, filed 02 March 2011, with respect to the rejection of claims 3-5 under 35 U.S.C. 101 as being directed to non-statutory subject matter, have been fully considered. However, the rejection of claims 3-5 under 35 U.S.C. 101 has been WITHDRAWN in view of *Prometheus Laboratories, Inc. v Mayo Collaborative Services* (Fed Cir, 2008-1403, 9/16/2009). The opinion concluded that, in process claims, "[t]he administering step, therefore, is not merely data-gathering but a significant transformative element [the claimed] method..." *Id.* at 16.

2. Applicant's arguments, see Pre-Appeal-Brief Request for Review, pp. 3-5, filed 02 March 2011, with respect to the rejection of claim 3 under 35 U.S.C. 103(a) as being unpatentable over Ben-Oren et al, U.S. Patent No. 7,338,444 B2 ("Ben-Oren"), in view of Katzman et al, U.S. Patent No. 6,186,958 B1 ("Katzman"), and with respect to the rejection of claims 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Ben-Oren in view of Katzman, as applied to claim 3, and further in view of Ghooos, GB 2360845 A , have been fully considered, but they are not persuasive.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Marmor, II/
Supervisory Patent Examiner
Art Unit 3735

/N. N./
Examiner, Art Unit 3735
03/25/2011